

Serial No. 10/634,682

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REMARKS/ARGUMENTS

I. THE MAY 30 AND JUNE 2 EXAMINER INTERVIEWS

Applicants greatly appreciate the courtesy extended by Examiner Balasubramanian during the May 30 and June 2 telephone examiner interviews. The substance of the interviews is incorporated into the following remarks. In addition, Applicants acknowledge that the Amendment submitted May 4, 2005 has not been entered. This Amendment replaces the May 4, 2005 Amendment.

II. THE AMENDMENTS TO THE CLAIMS

New claims 23 and 25 are supported by original claim 1.

New claim 24 is supported by Example B15 on page 31, lines 17 to 27, wherein the preparation of the hydrochloride salt of 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile is described.

Support for the amendment to claim 1 can be found in the application on page 31, lines 5 to 16, Example B14, mentioning the preparation of compound 46, which is 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile, and the information in Table 2, page 37, last line, where Compound 46 is defined in terms of its structure.

Support for the new claim 26 can be found in the examples wherein a description is given of how the compound is isolated from the reaction mixture. More in particular, support can be found on page 11, line 4. Further support can be found in example B14, page 31, line 5 to 15, wherein the preparation and purification of 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile is described. For support of isolating and purifying a salt of 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile, the Examiner's attention is respectfully drawn to Example B15 on page 31, lines 17 to 27, wherein the hydrochloride salt of 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile is prepared.

Support for the new claim 27 can be found in the specification in the examples, for instance, the above-mentioned Examples B14 and B15 mentioning purification steps, which leads to

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substantially pure compounds. For support of pure stereochemically isomeric forms, the Examiner's attention is drawn towards page 12, line 12 and page 13, line 8. A person skilled in the art would read into those paragraphs of the description and into the examples that "pure" means "substantially pure" in view of the possible imperfection of the purification.

Support for the new claim 28 can be found in the application on page 17, line 35.

Support for the new claims 29 and 30 can be found in the application on page 21, line 31 to 32.

Support for claims 31 and 32 can be found on page 17, line 35 and page 21, line 31 to 32.

Support for claim 33 can be found on page on page 16, lines 35 to 38, on page 17, line 2 and page 17, lines 14 to 18.

Support for claim 34 can be found on page 16, line 35 to 38.

Support for claim 35 can be found on page 22, line 6 to 27.

Support for claim 36 can be found on page 22, line 6 to 27.

Support for claim 37 can be found on page 16, line 35 to 38

Support for claim 38 can be found on page 16, line 35 to 38 and in the pharmacological example on page 39.

Support for claim 39 can be found on page on page 16, line 35 to 38 and in the pharmacological example on page 39.

Support for claim 40 can be found on page on page 16, line 35 to 38 and in the pharmacological example on page 39.

Support for claim 41 can be found on page on page 16, line 35 to 38 and in the pharmacological example on page 39.

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III. THE REJECTIONS UNDER 35 U.S.C. § 112

A. Of Claim 6

In the final Office Action, the Examiner rejects claim 6 under 35 U.S.C. § 112, second paragraph, for use of the terms dextran and (dextran sulfate). In response, claim 6 has been amended. The word "dextran" has been deleted and the parentheses around dextrane sulfate have been deleted as well. Thus, the rejection under 35 U.S.C. § 112, second paragraph, is obviated. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, are respectfully requested.

B. Of Claims 27-31

In the Advisory Action, the Examiner rejects claims 27-31 as introduced in the Amendment submitted on May 4, 2005 as duplicative of previously presented claims 2, 23, 24, 26 and 30. In response, Applicants amend claim 2 to include the structure therein; and cancel the subject matter of previously introduced claims 27-31. Thus this rejection is obviated. Reconsideration and withdrawal of the rejection are respectfully requested.

C. Of N-oxide claims

In the Advisory Action, the Examiner rejects claims to N-oxide as a species. In response, although Applicants believe that there is sufficient support in the present specification for claims directed to N-oxide forms of the compound of the invention, Applicants cancel such claims herein to expedite prosecution of the remaining claims. Applicants reserve the right to file divisional applications on these claims. Thus, this rejection is obviated. Reconsideration and withdrawal of the rejection are respectfully requested.

IV. THE DOUBLE PATENTING REJECTIONS

A. Of Claim 21 Over Claims 8, 10, 19, 20 And 21 Of U.S. Patent No. 6,878,717

In the Advisory Action, the Examiner maintains the rejection of claim 21 under the judicially created obviousness-type double patenting over claims 8, 10, 19, 20 and 21 of co-pending Application No. 09/430,966, now issued as U.S. Patent No. 6,878,717 ("the '717 patent"). In response, Applicants submit herewith a terminal disclaimer to disclaim the terminal part of the statutory term of any claim of similar scope to claim 21 (i.e., a method of treating subjects suffering from HIV comprising administering the compounds identified therein) in any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,878,717. 37 C.F.R. § 1.321.

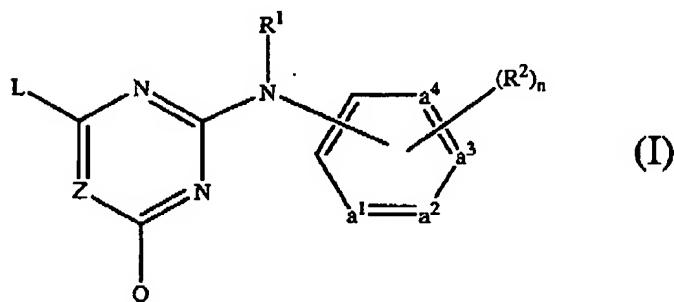
Reconsideration and withdrawal of the rejection of claim 21 under the judicially created obviousness-type double patenting are respectfully requested.

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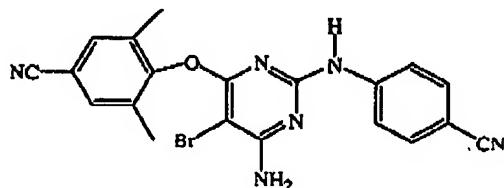
B. Of Claims 1-22 Over Co-pending Application No. 10/275,931

In the final Office Action, the Examiner rejects claims 1-22 under the judicially created obviousness-type double patenting over claims 1-8 and 10-135 of co-pending Application No. 10/275,931 ("the '931 application"). Applicants respectfully traverse the rejection.

Applicants respectfully submit that the subject matter recited in the claims of the '931 application does not overlap with the subject matter recited in claims 1-22 of the present application. In particular, the claims of the '931 application recite formula (I):



wherein, the claims 1-22 of the present application recite compounds having the following basic structure:



The Examiner's attention is drawn to the fact that the definition of "Q" in the '931 application does not include an amino group. Hence there is no overlap between the claims recited in the '931 application and claims 1-22 of the present application. Reconsideration and withdrawal of the rejection of claims 1-22 under the judicially created obviousness-type double patenting are respectfully requested.

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Early consideration and prompt allowance of the pending claims are respectfully requested. Should the Examiner require anything further, the Examiner is invited to contact Applicants' representative at the telephone number below.

Respectfully submitted,

By: /Laura A. Donnelly/
Laura A. Donnelly
Reg. No. 38,435

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-1729
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Attachment: Terminal Disclaimer